

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

JAMES CALVIN TEMS, #1278117

§

VS.

§

CIVIL ACTION NO. 6:16cv91

DIRECTOR, TDCJ-CID

§

MEMORANDUM OPINION ADOPTING THE REPORT
OF THE UNITED STATES MAGISTRATE JUDGE

Petitioner James Calvin Tems, proceeding *pro se*, an inmate confined at the Eastham Unit within the Texas Department of Criminal Justice (TDCJ), filed this petition for a writ of habeas corpus pursuant to § 2254 complaining of the legality of his parole revocation. The case was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On November 7, 2018, Judge Mitchell issued a Report, (Dkt. #22), recommending that Petitioner's petition for a writ of habeas corpus be dismissed, with prejudice. A copy of this Report was sent to Petitioner's address; return receipt requested. The docket illustrates that Petitioner received a copy of the Report on November 9, 2018, (Dkt. #23). However, to date, no objections to the Report have been received.

Because Petitioner has failed to file objections to Judge Mitchell's Report, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #22), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Petitioner's petition for a writ of habeas corpus is **DISMISSED** with prejudice. Petitioner is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** February 22, 2019.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, Senior District Judge